

REMARKS

The Applicant notes the examiner's rejection of Claims 1-3 and 5-7 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,842,178 ("Giovannoli") combined with U.S. Patent No. 6,324,522 ("Peterson") and respectfully requests reconsideration and withdrawal of said rejection in light of the enclosed claim amendments and the following discussion.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and *not* based on the Applicants' disclosure. MPEP § 2143. "In determining differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." MPEP § 2141.02 (emphasis in original) (citing *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Norton Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983)).

The Applicant respectfully submits that Claims 1-3 and 5-7, as amended, are not unpatentable over Giovannoli combined with Peterson for at least the following reasons. With respect to claims 1-3 and 5-7 as currently worded, there is a specific element of at least one direct sales channel and at least one indirect sales channel being provided from the same single point of purchase, which allows buyers to either complete a purchase transaction directly with a

seller or complete a purchase transaction indirectly via an intermediary that acquires the goods/services from the seller and then resells them to the buyer, and also means for providing information regarding, from that single point of purchase, both the purchase terms for a purchase using a direct sales channel and purchase terms for a purchase using the indirect channel for comparison and evaluation by the buyer to determine which sales channel provides the better terms from said seller. This is a novel and patentable improvement and huge convenience for a buyer in that the buyer can gather the information as to whether buying products/services directly from a seller is a better deal, or whether buying products/services indirectly from the same seller via an intermediary that buys from the seller and resells to the buyer is a better deal, all from a single point of purchase, i.e., from the same online page, and further the buyer can proceed with completing a purchase transaction under either alternative from the same single point of purchase, i.e., from the same online page. In some settings a direct sales channel may provide better prices and quicker fulfillment and it may not matter if the buyer identifies himself to the seller in a direct transaction. On the other hand, sometimes it may be to the buyer's advantage not to reveal the buyer's identity to the seller and instead buy indirectly, because the seller may otherwise refuse to sell to that buyer or may increase the price, or otherwise provide worse terms. It is possible that using an intermediary, even if the intermediary charges a commission or other fee or marks up the goods when the intermediary resells them to the ultimate buyer, may be able to get better terms from a vendor than the ultimate buyer could. Providing both a direct sales channel and an indirect sales channel is novel and contrary to prior art systems and methods because direct and indirect sales channels are competitive with each other—an indirect sales channel normally does not want a buyer to know the buyer can buy directly or be able to compare purchase terms via both sales channels, especially from the same point of purchase. Neither Giovannoli nor Peterson in any way address this need. In Giovannoli this is not possible

because there are not two different sales channels in the sense of a traditional direct channel AND one where an intermediary acquires the goods from the seller and then resells to the buyer, which is “indirect” and which is the case with the Applicant’s system. This is explained in paragraphs [0019]-[0021] of the Applicant’s specification. In Giovannoli there may be direct and indirect *communications* channels, but not direct and indirect SALES channels, provided from a single point of purchase, and there is nowhere in Giovannoli any disclosure of an indirect channel offered at the same point as a direct channel, with the indirect channel involving an intermediary that acquires the goods from the seller and then resells them to the buyer, thereby allowing the buyer to evaluate which of the two purchasing alternatives provides better purchase terms for the same goods/services. This is explained in the second to last paragraph of the “Summary of the Invention” in the Specification.

Additionally, contrary to the examiner’s assertions, while Giovannoli mentions that a *vendor* can “respond” (see column 3, line 21) “directly” to a quotation request or may respond indirectly via the Giovannoli system which “in turn makes available or transmits said received quotations,” nowhere does Giovannoli teach that the indirect method for a *buyer* to transmit a response to a request for quotation and complete a purchase from a seller via the Giovannoli system involving an indirect channel “acquiring said goods/services from said sellers and reselling same to said buyers.” While Giovannoli in Column 6, lines 2-12 states that a buyer could email a purchase order to a seller *directly* via a hyperlink in an emailed quotation from a seller or could complete a credit purchase transmitted through the system, the ultimate buyer is still the actual and only buyer that the seller is directly selling to, and there is no intermediary that is acquiring the goods and then reselling them to the ultimate buyer. Paragraph 6 of the Office Action claims that column 3, lines 2-8 of Giovanolli discloses both a direct sales channel and an indirect sales channel, with an indirect sales channel being via an intermediary that

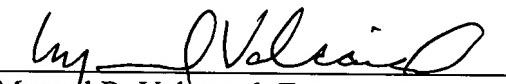
acquires the goods/services from seller and resells same to buyer, but the text referenced in Column 2, lines 2-8 only refers to vendors “communicating their quotations” either directly to buyers or indirectly through the system. This is simply not the same as the Applicant’s direct and indirect SALES channels from the same single point of purchase-Giovannoli is only mentioning communicating quotes, and if the transaction between a buyer and a seller in Giovannoli proceeds beyond the communication of quotes, the transaction, i.e., the sale, occurs only one way, between the ultimate buyer and the seller directly, not indirectly via an intermediary that acquires the goods/services from the seller and resells them to the ultimate buyer. Additionally, because Giovannoli does not provide both a direct and indirect sales channel from a single point of purchase, buyers are not provided with information as to whether the terms are better from a particular seller if a purchase is made directly versus indirectly.

The Applicant therefore respectfully requests that examiner withdraw the rejections of the Applicant’s claims.

The Applicant respectfully submits that the application and claims, as amended, are in condition for allowance. Nonetheless, should the examiner still have any comments, questions or suggestions, the examiner is respectfully requested to telephone the undersigned at the telephone number listed below.

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Respectfully submitted,
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